

REMARKS

Applicant has carefully studied the outstanding Official Action mailed on January 26, 2010. This response is intended to be fully responsive to all points of rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application are respectfully requested.

Claim 14 stands rejected under 35 USC §102(e) as being anticipated by Kugler et al. (US 2004/0147801). The rejection is moot because claim 14 has been canceled.

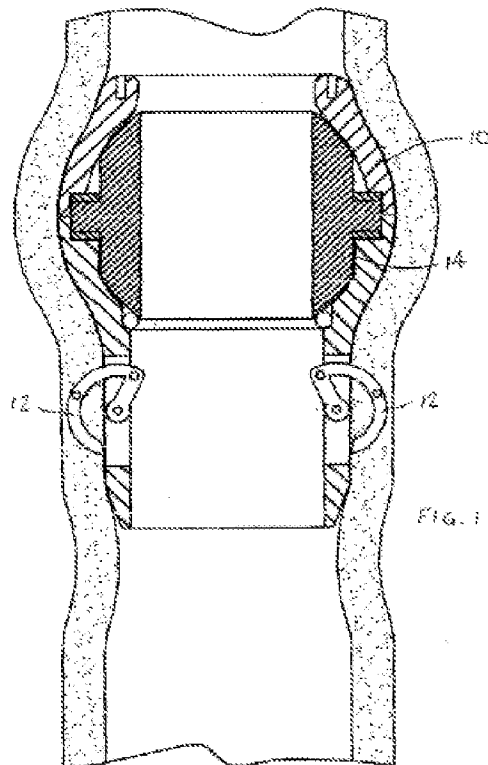
Claims 1, 4-6, 8, 10 and 13 stand rejected under 35 USC §103(a) as being unpatentable over Feng et al. (US 6752754) in view of Kugler et al.

Claims 2-3 stand rejected under 35 USC §103(a) as being unpatentable over Feng et al. in view of Kugler et al. and further in view of Brooks et al. (US 4967844).

Claim 7 stands rejected under 35 USC §103(a) as being unpatentable over Feng et al. in view of Kugler et al. and further in view of Carter et al. (US 5593443).

Claims 9, 11 and 12 stand rejected under 35 USC §103(a) as being unpatentable over Feng et al. in view of Kugler et al. and further in view of Kagan et al. (US 2004/0092892).

It is respectfully pointed out that there is a structural difference between the instant invention and the cited art, as is best understood from Fig. 1 reproduced here:



The distal extremity of each fixation element 12, after entering the tissue, points back towards the outer wall of the casing. This is different structure than the nitinol prongs 110 of

Kugler et al. which, even after entering the tissue, point outwards away from the outer wall of the casing. Feng et al. does not describe any hooks with this structure. The only hooks mentioned by Kagan et al. are in paragraph [0276]:

“[0276] In one example of the fixation system 430 shown in FIG. 23A, the attachment means 424 is configured with a plurality of clip rings 426 mounted around the exterior of the gastrointestinal sleeve device 400 near the proximal opening 402. The clip rings 426 are configured with gaps in the rings that allow the rings to clip onto the exposed bare portions of the anchor ring 422 to hold the gastrointestinal sleeve device 400 in position. In other embodiments, the attachment means 424 may comprise magnets, clips, hooks, staples, sutures or other known fasteners.”

There is no description here of any hooks, which after entering the tissue, point back towards the outer wall of the casing. Furthermore, it is respectfully noted that Kagan et al. does not mention any *rotatable* hooks, contrary to the rejection of claim 12.

Claim 1 has been amended to recite that the distal extremities of the fixation elements, after entering the tissue, point back towards the outer wall of the casing. This feature is claimed in claim 16 as well, and is deemed to be patentable over the prior art.

Accordingly, claims 1-13 and 15-16 are deemed allowable.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,
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